

Serial No. 09/662,737
Response to Office Action dated October 18, 2006
Docket No. L9090/269360

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REMARKS

Claims 2-33, 35-37, 39-44 and 47-49 are pending¹ with Claims 35-37, 39-44 and 48 and 49 being withdrawn. The foregoing amendment amends independent Claim 47 to clarify the invention and the appended remarks distinguish the claimed invention from the cited references.

Woolston and Yagasaki Do Not Describe a Host Computer that Classifies Items

The Examiner rejected Claim 47 under U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 6,085,176 to Woolston, in view of U.S. Pat. No. 6,125,353 to Yagasaki.²

Woolston describes a system for creating an electronic market for used and collectable goods that includes consignment nodes or posting terminals. "A consignment node is a computer database of used goods preferably operated by a used good, collectable shop keeper or a bailee. A posting terminal is a low cost easy to use computer and computer peripheral devices used by a small store owner to present goods to a computerized [market] and track the sales of goods and control the posted inventory. All consignment nodes users or operators, hereinafter users, are 'trusted' licensees or franchisers of the software and hardware necessary to create and operate a consignment node" Col. 2, lines 29-38.

Woolston describes that the franchise agreement specifies which market a consignment node operator serves. For example, one consignment node operator may be given the market for antique pens based on the franchise agreement. Col. 2, lines 44-48. The market categories and subcategories shown in Fig. 8 are

¹ The Office Action rejected Claim 1-33 and 47, but Claim 1 was previously cancelled so it is believed that the Examiner intended to indicate Claims 2-33 and 47.

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established by the consignment node operator. Woolston describes that a posting terminal user is prompted for certain information about the item to be posted, including the selection of a category and subcategory using a drop down menu. Regardless of whether a consignment node or a posting terminal is used, the item is categorized by the entity that posts the item at the time of posting.

To use the system described by Woolston, a user selects "auction," "market" or "agent handler." If the user selects auction, a list of auctions is presented to the user and the user selects an auction from the list. If the user selects market, then a list of the markets is presented to the user and the user selects a market from the list. For example, the antique pen market may be included on the list of markets. If the user selects agent handler, then a search request is initiated for an item specified by the user.

The Examiner admitted that Woolston only allows a user to specify a single item. However, the Examiner alleged that Yagaski describes that a shopper can specify a class of items and that it would have been obvious to modify Woolston to allow a user to search by a class of items, as described by Yagasaki, to narrow the field of search and enhance the efficiency of the system. Yagasaki describes a system that provides a virtual shopping mall on a network. Retailers within the virtual mall register items for sale through the virtual shopping mall with the mall server by providing information about each item. See e.g. Col. 5, lines 54-67 and Fig. 6. Yagasaki describes two types of product categories as shown in Fig. 5. The first type of product category is restricted to a certain time period (Holiday season, Mother's Day, Father's Day, St. Valentine's Day), while the second type is not restricted to a specific time period (fashion, education, books). The time restricted categories are used to help a shopper find a desired category. For both types of

² The Office Action also indicates that Claim 47 is rejected under 102(e) as being anticipated by Woolston. However, since the Examiner admits that Woolston does not describe that a shopper can specify a class of items, it is believed that the Examiner only intended to include the rejection under 103(a) and only that rejection is addressed.

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product categories, the retailer selects the appropriate categories for an item when the item is registered with the mall server.

There is no motivation to combine Woolston and Yagasaki in the manner suggested by the Examiner. The types of goods and the type of sellers described in Woolston and Yagasaki differ. Woolston describes a system that is directed to the used good and collectable market where the items are unique or only available in very limited numbers and where the items are not interchangeable. For example, two antique baseball cards for the same player in different conditions will bring different prices. In contrast, Yagasaki describes a system that is directed to new goods where there is inventory for each item.

Yagasaki describes that a seasonal product category is only presented to a user during an appropriate time period so that no out of season items are presented to the user, which makes it easier for a user to locate a desired category. Woolston describes a system that is directed to used goods and collectables where the user typically is searching for a specific item. For example, a user searching for a Frank Robinson baseball card typically is looking for that specific item, not generally browsing all types of baseball items. Thus, the problem that Yagasaki is directed to solving does not present itself to the users of Woolston.

Even if the reference are combined, the combination does not describe the claimed invention. The foregoing amendment to Claim 47 clarifies that the invention does not require that all enterprises use a common classification system or classify items when they are posted using a common classification system, as required by Woolston and Yagasaki. Instead, the host computer searches a number of independent enterprises for information about items and then based on the information collected, the host computer classifies each item by associating the item with a class. The amendment is supported by the specification, which describes an "item category parser to categorize pages of items with a taxonomy of categories."

Page 17, lines 12-13.

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**Wooston, Yagasaki and Fisher Do Not Describe Multiple Auction Sites
or Collecting Information Based on Previously Collected Information**

The Examiner rejected Claims 11-24, 32 and 33 under U.S.C. § 103(a) as being unpatentable over Woolston, in view of Yagasaki, and further in view of U.S. Pat. No. 5,835,896 to Fisher. Fisher describes a multi-bidder interactive auction conducted via a network, such as the Internet. A single system controls the items that are up for bid, receives bids from bidders and processes all bids. The system does not interact with other auction systems. Although Fisher describes that an index of available merchandise is maintained, no details of the index are provided. Column 7, lines 39-40. The auction system described by Fisher does not allow a user to specify a class or category of items and does not describe associating data items for a selected product or service with categories.

Claims 11-24, 32 and 33 require collecting information from or monitoring a plurality of auction sites. Fisher is limited to only a single auction site and thus does not describe collecting information from or monitoring multiple auction sites. There is no suggestion in Fisher that an auction could be conducted over multiple sites or any description of how the auction manager described by Fisher would operate over multiple sites.

Claims 11 and 13 also requires dynamically scheduling the collecting of information based upon the content of previously collected information. The cited section of Fisher describes bid validation. Bid validation examines the bid information to determine whether all of the necessary data is present and the data values look credible. An auction manager determines when to open a new auction by checking the current time and then determining whether any new merchandise items are scheduled to be made available for bidding. The current time is retrieved from a clock or timer associated with the auction system. It is not collected from a

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separate enterprise. Similarly, any new merchandise items are submitted directly to the auction system. The items are not collected from a separate enterprise.

The Examiner alleged that it would have been obvious to modify Woolston and Yagasaki to include the collection of information from an auction database described by Fisher since it "allows the auction manager to schedule information to the auction database as merchandise items are scheduled for posting and opened for bidding thereby, improving the efficiency of the system." It is not obvious to modify Woolston and Yagasaki in the manner suggested by the Examiner. Woolston describes its own auction process, post-bid process and transfer of ownership process (Figs. 4-7). The Office action does not describe how the processes described by Woolston could be modified to include the bid validation process described by Fisher. Furthermore, there is no suggestion in Woolston that a bid validation process is needed.

Yagasaki describes a virtual shopping mall and it is not obvious to extend Yagasaki to include auction sites. Auction sites differ from electronic retailer in a number of significant ways. Electronic retailers typically have significant inventory, whereas there may be only a limited number of items, and in many cases only one item, available for an auction. Electronic retailers specify a price set by a seller, whereas auction bids reflect a price that a buyer is willing to pay. The price associated with an item being auctioned is dynamic and is subject to change very rapidly. Even though an electronic retailer may alter the price of an item, it does not make changes as rapidly as an auction or in response to a bid by a potential buyer.

Claims 2-33 depend from Claim 47 and are patentable for at least the same reasons given above for Claim 47.

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Conclusion

In light of the foregoing, it is submitted that the claims are patentable over the cited references. If there are any issues that can be resolved via a telephone conference, the Examiner is invited to contact the undersigned at 404.685.6799.

Respectfully submitted,



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